3 Non-agricultural Market Access (NAMA)

3.1 What is the Doha mandate for negotiations on Non-Agricultural Market Access (NAMA)?

Interestingly, until recently the main focus of multilateral trade negotiations was more on Non-Agricultural Market Access (NAMA). As we have already seen trade in agricultural products was kept outside the purview of the General Agreement on Tariff and Trade (GATT) until the formation of the WTO. It was the Agreement on Agriculture (AoA) of the WTO that paved way for new initiatives for establishing freer trade in agricultural products. Trade in agriculture therefore figures prominently in the negotiating agenda of the new Round. But, the importance gained by agriculture has not been at the expense of trade in non-agricultural products. The international trading system is as committed as ever in promoting trade in non-agricultural goods.

Even though the entire negotiating career under GATT and almost seven of its Rounds had produced significant progress towards freer trade in non-agricultural goods, there still remain scores of issues to be resolved through multilateral dialogue and decision-making. For instance, there is considerable scope for liberalizing tariff and non-tariff barriers to trade in non-agricultural products. Further, because of the uneven nature of the liberalization process initiated so far, there remain areas of high/peak tariffs as well as product groups encountering high incidence of non-tariff barriers. Also, there are serious problems arising out of trade barriers across processing chains. Persistence of peak tariffs and incidence of tariff escalation are issues of great concern to the developing countries, for they suffer the most from such commercial policy practices, especially of the developed countries. Widespread use of non-tariff measures and non-ad valorem duties (quantity specific duties) by developed countries are also issues of concern to the developing participants

The non-agricultural market access problems (NAMA) may be classified into two subsets; first, those pertaining to tariffs, and second, the ones related to non-tariff measures. The Doha Declaration emphasizes that negotia-

tions should aim at reduction or elimination of tariffs as well as non-tariff barriers. (See Box 2.1)

Box 3.1 NAMA and Doha Mandate

"We agree to negotiations which shall aim, by modalities to be agreed, to reduce or as appropriate eliminate tariffs, including the reduction or elimination of tariff peaks, high tariffs, and tariff escalation, as well as non-tariff barriers, in particular on products of export interest to developing countries. Product coverage shall be comprehensive and without a priori exclusions. The negotiations shall take fully into account the special needs and interests of developing and least-developed country participants, including through less than full reciprocity in reduction commitments, in accordance with the relevant provisions of Article XXVIII of GATT 1994 and the provisions cited in paragraph 50 below. To this end, the modalities to be agreed will include appropriate studies and capacity-building measures to assist least-developed countries to participate effectively in the negotiations" *(Para 16)*

The Doha Mandate on NAMA, as is clear from Box 3.1, highlights, among other things the need to extend special and differential treatment to the developing countries. It is a mandate for reducing or eliminating all possible barriers to trade in non-agricultural products subject to special and differential treatment to developing countries.

The Hong Kong ministerial is expected to come out with a clear statement on modalities to be employed in NAMA negotiations. The NGMA has received many proposals on modalities from Members as well as some of their groups. The Chairman of the NGMA in turn has prepared a document, 'Draft Elements on Modalities for Negotiations on Non-Agricultural Products' on 16 May 2003, and it was revised later in August 2003. Another and a more recent proposal on modalities has come from the Dalian Mini Ministerial. Even though, there is, as yet, no consensus on these proposals, they give some idea on the broad areas of conflict of interests as well as possible compromise packages. They will be subjecting the modalities to in-depth analysis to see how they address the problems in the area of non-agricultural market access such as, (i) peak/high tariffs, (ii) tariff escalation across processing chains, (iii) specific tariffs (iv) non-tariff measures, (v) special and different treatment to the developing countries, etc.

3.2 How important is the problem of specific tariffs for NAMA?

The tariff can be ad valorem, specific or a combination of the two:

i. Ad Valorem (a percentage of the value of imported good), say 10 % of the values of the product.

ii. Specific (a given amount of money per physical unit, say Rs. 10 per litre of palm oil)

Ad valorem tariffs are more transparent vis-à-vis the specific duties. In ad valorem tariffs the rate itself offers a clear and comparable measure of protection. Specific tariffs on the other hand will need to be converted into their ad valorem equivalents for making comparison possible. The developed countries are known to employ specific and complex tariffs quite widely. Around 12.5 per cent of the E.U tariff lines and over 14 per cent of the U.S tariff lines are subject to specific tariffs rather than ad valorem rates. Specific rates and other complex form of tariffs are far more restrictive than what they appear to be. Further, the degree of protection granted by the specific duties will increase as the unit value/price of imports decline. This is an important point to be noted because developing countries engage in price competition and try to sell cheap. The specific tariff will be stiffer with respect to cheaper varieties of products.

The developing country members are therefore very keen to see that all tariffs in developed countries are converted into their ad valorem equivalents. Conversion of specific rates into ad valorem rates is necessary for employing tariff-cutting formulae. Ad valorem conversion in fact is a very important pre-condition for the success of NAMA negotiations.

3.3 What are tariff peaks? Why are peaks so important for developing countries?

The problem of tariff peaks is best under-

stood in the background of the history of tariff negotiations starting from the first GATT Round (Geneva Round, 1947) to the eighth Round (Uruguay Round, 1986-1994). The multilateral trade negotiating Rounds under GATT were to a reasonable extent successful in inducing countries to lower and bind tariffs over time. In OECD countries the average tariff rates on import of manufactured goods was as low as 1.5 per cent in 1995 (See Table 2.1). Similarly, coverage of tariff bindings for industrial products in developed countries has reached 99 per cent at the conclusion of the Uruguay round. Tariff binding refers to a commitment not to increase import duty (tariff) beyond and agreed level. But many lines of tariff may not have any such specific binding limits.

However, the picture in terms of average tariffs can be misleading. While the average is remarkably low there exist many tariff lines encountering what may be referred to as high/peak tariffs. It is difficult to define a cut-off point to identify commodities encountering peak tariffs. The cut off point generally taken is 12 per cent (alternatively 10 or 15 per cent is also taken). According to UNCTAD estimates nearly 10 per cent of tariff universe of Quad Countries (US, EU, Canada and Japan) encounter more than 12 per cent ad valorem. Obviously, the depth of tariff cuts in the past negotiations varied significantly across the tariffs lines/products. While most tariff lines experienced deeper cuts, the rate of reduction was much less in some tariff lines.

Table 3.1 Patterns of Protection, 1995 (per cent)

Exporting Region	Importing Region	
	HIGH INCOME	DEVELOPING
Manufacturers		
High Income	0.8	10.9
Developing	3.4	12.8
World	1.5	11.5
Agriculture		
High Income	15.9	21.5
Developing	15.1	18.3
World	15.6	20.1

Source: Hoeckman and Kostecki 2001:43

Box 3.2: The Underdeveloped Nations Pay More (US$)

The average tariffs in developed countries, especially in the area of manufactures are negligibly low. However, that the poor countries such as Bangladesh and Nepal, who export labour intensive manufactures such as clothing, end up paying higher effective rates is brought out dramatically by the following data.

Country	Per Capita GDP	2001 Exports to US in billion	Tariff Paid in Millions	Rate (%)
Nepal	240	0.20	25	12.3
Ireland	22660	18.60	29	0.2
Bangladesh	370	2.35	331	14.1
France	24170	30.02	330	1.1
Cambodia	260	0.96	152	15.8
Singapore	30170	14.90	96	0.6

Source: World Bank, World Development Indicators 2002: ITC data web.

The tariff lines/products, which experienced lower cuts in earlier MTN Rounds have emerged as what is now known as high tariff/peak tariff lines/areas. Studies have shown that peak tariffs exist mostly against labour intensive manufactures, which are of special export interest to developing countries. Textile and clothing, footwear, leather products, etc, are among the widely acknowledged high tariff lines. On account of their weak position in the global balance of power the developing countries could not get the developed counterparts to reduce the relatively higher tariffs encountered by their labour intensive export products and suffer lower access to the markets of developing nations. It is in this context that the developing countries including India, demand deeper cuts in high/peak tariff areas vis-à-vis low tariff lines. Therefore, they generally prefer a tariff cutting formula, which is progressive, i.e., ensuring higher rate of reduction for higher tariffs.

However, interestingly, and as we shall discuss in some more detail later, the developing countries are unlikely to agree to a non-discriminatory tariff cutting formula which is insensitive to the lower stage of their development. The developing countries are likely to insist on special and differential treatment by way of less than full reciprocity in reduction commitments. Less than full reciprocity means that if developed countries reduce their tariff by, say 20% the developing countries reduce their tariffs by say 15% or anything less than the developed countries. "Less than reciprocal" is a differential treatment expected by developing countries in the case of NAMA. The average rate of tariff that exist in developing countries in general is significantly higher than the corresponding figure for developed countries. The average rate for manufactures for developing countries was around 11.5 per cent in 1995 as against 1.5 per cent in developed countries (See Table 2.1). Naturally the level of high/peak tariffs in developing countries will be higher. And the percentage of bound tariff lines were only 72 per cent as against 99 per cent in the case of developed nations. While the developing countries might agree to increase the proportion of bound tariffs, they are unlikely to accept the same pattern of reduction as the developed nations. This is so because of following reasons. First, they have reduced their tariffs significantly during the Uruguay Round without managing to get reciprocal liberalization commitments from the developed countries. Second, given their stage of development, and the need to protect infant industries from unfair external competition, they would need to keep relatively higher barriers to entry. Third, many governments of the developing world are dependent on customs revenue for running the government as well as for undertaking investment/development activities. Hence, developing countries are likely to demand for a package of tariff reductions, which would ensure lower rates of cuts in their tariffs vis-à-vis those of developed countries.

Box 3.3 Tariff Bindings for Industrial Products

Country Group	No of Lines	Percentage of Tariff Lines Bound	
		Pre Uruguay	Post Uruguay
Developed Countries	86968	78	99
Developing Countries	157805	22	72
Transitional Economies	18962	73	98

Source: RIS base on UNCTAD/WTO, 2000.

3.4 What is the Significance of Tariff Escalation in NAMA Negotiations?

Tariff escalation means the increase in tariff rates with the increase in the degree of processing. In such a structure of tariffs import duty rates will be low for raw materials, but would increase as we move on to higher stages of processing. The data presented in Table 2.2 provide clear illustration of the phenomenon of tariff escalation in developed countries. The observed escalation of tariffs is a major disincentive /barrier for developing countries in their effort to move up in the processing chains. Such hostile tariff structures prevailing in developed markets hinder the mobility of developing countries into value added products.

Conversely, the escalation of tariffs allow the developed countries to give high effective rate of protection for their processing industries.

Table: 3.2 Tariff Escalation in the 'Quad' by 2-digit ISIC Industry

		USA 2001	Canada 2002	EU (15) 2002	Japan 2002-03
Food beverages and tobacco	First stage of processing	3.2	7.9	12.4	25.4
	Semi-Processed	9.0	6.8	19.1	30.3
	Fully Processed	13.1	34.3	18.8	22.6
Textiles and Leather	First stage of processing	2.2	1.0	0.9	9.8
	Semi-Processed	9.8	7.0	6.7	6.8
	Fully Processed	10.3	13.5	9.7	12.0
Non-Metallic Mineral Products	First stage of processing	0.0	0.0	0.0	0.0
	Semi-Processed	2.3	0.7	2.9	1.5
	Fully Processed	5.4	3.8	4.0	1.1
Basic Metal	First stage of processing	0.3	0.0	0.0	0.4
	Semi-Processed	2.1	0.9	1.9	1.1
	Fully Processed	2.5	3.0	0.0	3.0

Source: RIS (2003): World Trade and Development Report: Cancun and Beyond

Even though the problem of tariff escalation was raised in earlier rounds, hardly anything substantial materialised. It is in this context that the Doha Mandate on NAMA made a clear mention of the issue which needs to be negotiated. The tariff cutting formula of the Hong Kong Ministerial therefore is expected to have an inbuilt element to tackle the issue of tariff escalation. In fact, a non-linear formula of the Swiss type will help moderate tariff escalation because it will ensure higher rate of reduction in high tariffs and lower rates of cut for lower tariffs.

3.5 Why are the developing countries insisting on using bound rates rather than applied rates as base rates for tariff negotiations?

By binding the tariff on a particular tariff line the WTO member undertakes not to impose a tariff higher than the bound rate. WTO members are not expected t raise tariffs above the levels they have bound in their schedules. Applied rates, however, can be lower than the bound rates.

In many developing countries, especially in India applied tariff rates are much lower than the bound ones. An important reason for this is the liberalization process in these countries that proceeded independently of the WTO negotiations. The developing countries on their own or on account of pressure from international lending agencies (for instance, IMF or World Bank) has been scaling down their border restrictions, tariff as well as non-tariff measures. As a result, applied rates have witnessed major reduction in many countries since the conclusion of the Uruguay Round. Developing nations have not been able to demand or get any reciprocal reduction from the developed countries.

Further, according to the WTO agreement the member countries are bound by the bound rates rather than the applied rates. If applied rates are taken as base rates for tariff reduction the developing nations will be forced to agree on deeper reduction in their tariffs. It might also amount to penalizing those countries, which had tried to reduce tariffs on their own. Moreover, maintaining a safe gap between bound rates and applied rates will be desirable in the context of developing countries because they are more vulnerable to external shocks and balance of

payment strains. When crisis set in they will able to raise the applied rates up to the level of bound rates.

For the same set of reasons developed countries would like the applied rates to be taken as the base rates for tariff negotiations. India has been insisting on using bound rates as the base rates. The joint proposal by Argentina, Brazil and India, popularly known as ABI proposal is on these lines.

3.6 What is the 'Swiss formula'? How does it compare with other formulas applied for effecting tariff cuts?

The initial GATT process of tariff negotiations were essentially bilateral wherein countries exchanged concessions with each other. But such bilateral exchange of concessions always assumed a multilateral character in GATT because of the Most Favoured Nation (MFN) clause: concessions negotiated bilaterally were generalized to all participants through the MFN clause. Over time, as the number of participants and the complexity of negotiations rose, across-the-board approach to tariff reduction was introduced to supplement the bilateral approach. There are two well-known variants of across-the-boards formula: the linear cutting formula; and a harmonisation formula. The linear cutting formula applies the same rate of tariff reduction to all product lines by all participants. The linear formula can be expressed as: T1= r*T0, where T1 is the reduced tariff, T0 is the initial tariff and r is a co-efficient ranging between 0 and 1. It will ensure identical percentage reduction in barriers across sectors. Obviously, the linear formula will not address issues such as tariff peaks, tariff escalation or special and differential treatment to be given to the developing nations.

Harmonization formula aims at greater uniformity of tariff structure of member countries, by cutting higher tariffs at higher rates than the lower ones. The Swiss formula is one such and under it, the following method can be used to achieve harmonization.

T1 = R T0 / R + T0

Where T1 is the reduced tariff, T0 is the initial tariff and R is a coefficient. This formula reduces high tariff rates much more than lower tariff rates. The rate of reduction however would depend on the value of the coefficient (R).

The Swiss formula will help address the issue of high tariffs and duty escalation. But it may not address the question of Special and Differential treatment. On the contrary, if necessary adjustments are not made, it might even adversely affect the developing countries by imposing higher rate of reduction on them. The average level of tariffs in developing countries is higher than the average in developed nations. Thus, Swiss formula will result in deeper reduction of tariffs in poor countries. In order to ensure that developing nations are discriminated in favour and special and differential treatment is ensured – the value of the coefficient used in the formula can be appropriately changed.

Even then the formula might fail to adequately take into account the initial level of protection that exist in different countries. The average initial level of import duty varies significantly across countries even among developed countries not to speak of differences in the developing world. Developed countries used to maintain high tariff rates in their early stages of development. The average rates in most developing countries are higher than those in developed countries, reflecting early stages of development. One method suggested to take care of the stage of development and national differences in initial average tariff rates, is to introduce the element of initial average into the tariff cutting formula. The joint proposal by Argentina, Brazil and India (ABI) introduces this element of initial average tariff into the tariff cutting formula. The ABI formula is expressed as follows:

$$t1 = \frac{B * ta * t0}{B * ta + t0}$$

t1 is the final rate to be bound in ad valorem terms
t0 is the bound base rate

Box 3.4 Explanation of ABI Approach

This formula would help bring in the element of initial averages into the tariff cutting exercise. The countries having higher initial average (on account of early stage of development) will be allowed to have lower rates of reduction vis-à-vis nations having low initial average.

We have two imaginary countries 'developed' and 'developing'. The average tariff in developed is as low as 1.5 and the average for 'developing' is 11.5. We take a particular product line wherein the bound base rate in both the countries is 100 per cent (One of the high tariff product!) The coefficient arrived through the negotiation is 14.

Developed Country

Final Rate = $\frac{14*1.5*100}{14*1.5+100} = 17.36\%$

Developing Country

Final Rate = $\frac{14*11.5*100}{14*11.5+100} = 61.69\%$

Obviously the developing country will be experiencing a lower cut vis-à-vis the developed one. It is interesting, therefore, to see whether the developed nation would agree to have the element of initial average in the tariff cutting formula.

Table: 3.3 Effect of Swiss Formula on Tariffs

Initial Rate (To)	Final Rate (T1) When R = 14	Rate of Reduction (%)	Final Rate(T1) when R = 16	Rate of Reduction (%)
200	13.08	93.46	14.81	92.6
100	12.28	87.72	13.79	86.21
50	10.94	78.12	12.12	75.76
40	10.37	74.08	11.43	71.43
30	9.55	68.17	10.43	65.23
20	8.24	58.8	8.89	55.55
10	5.83	41.7	6.15	38.5
5	3.68	26.4	3.81	23.8
1	0.93	7.0	0.94	6.0
Developed Countries 1.5	1.35	10.0	1.37	8.66
Developing Countries 11.5	6.31	45.13	6.69	41.83

*Note: Formula Applied: T = R * To / R + To*

ta is the average of current bound rates
B is a coefficient, value of which is to be determined by the participants.

3.7 What is 'Zero for Zero' approach in tariff negotiations?

In the 'Draft Elements of Modalities for Negotiations on Non-Agricultural Products' circulated by the Chairman of the NGMA has identified 'Zero for Zero' approach as one of the possible modalities for NAMA negotiations. It is a sectoral elimination approach wherein all trade barriers employed by all members are removed. The idea is to establish free trade in identified sectors or product lines. The draft document

identifies seven sectors for employing the Zero for Zero approach. The proposed sectors are Electronics & Electrical Goods; Fish and Fish Products; Footwear; Leather Goods; Motor Vehicle Parts & Components; Stones Gems and Precious Metals; and Textiles & Clothing. While the idea of free trade in Textiles & Clothing, Footwear; Leather Goods, etc. is generally welcome from the point of view of developing countries the zero for zero approach has to be scrutinized in-depth to judge its effects in the short run as well as long run. Zero tariffs in developed markets would mean complete loss of preference margin that developing countries used to enjoy in developed markets with respect to some products. An instance of such special preference given to developing nations is that of Generalized System of Preferences (GSP). GSP preference will disappear when zero for zero approach is implemented. Preferential market access given to the African countries by the EU and the U.S will also suffer due to the loss of preference margin. It will also make the provision for special and differential treatment to the developing countries redundant. A formula approach, which reduce high tariff at a higher rate and takes care of the stage of development perhaps will be a more acceptable approach to the developing countries

3.8 What does Special and Differential Treatment (S&DT) mean of in the NAMA context?

Earlier GATT Rounds were not sensitive to the special problems faced by the developing countries. But, as more developing countries joined GATT, especially since 1964 they sought and obtained more favourable and differential treatment. Developing countries were offered in some cases better than MFN market access. Another form of preferential treatment was exemption from certain GATT rules and mechanisms. In the Uruguay Round, however, S&DT provisions were considerably diluted. There was a also growing complaint that the GATT system had started discriminating against developing countries. It is this experience of the Uruguay Round negotiations that generated vigorous demand for S&DT now. S&DT recognize that developing countries are at early stages of development when compared to their developed counterparts. As their stage of development with respect to economic, financial and technical development is different they have entirely different capacities in taking multilateral obligations. The problem of infant industries, which deserve protection from international competition, heavy dependence on customs revenue for maintaining some minimum level of government activities, vulnerability to external shocks, persistence of structural deficits in the balance of payments, etc., are some important grounds on which the developing nations seek special and differential treatment.

This question of stage of development and variation in the capacity for taking multilateral obligations is reflected in the Doha Mandate, especially in Para 16, which deals with NAMA. It mentions problems encountered by developing countries such as tariff peaks, tariff escalation, non-tariff barriers, specific duties, etc. Para 16 also speaks of less than full reciprocity on the part of developing countries. If the spirit of S&DT is honored, developing nations will benefit with lower overall reduction in tariffs, longer transition period, a reasonable proportion of unbound tariffs, etc.

3.9 What will be a reasonable prediction on the Hong Kong consensus on NAMA?

There is no easy answer for this question. There is as yet no consensus on any proposal on modalities. The chairman of the NGMA has received large number of proposals on modalities from members and their groupings. Chairman has prepared a document 'Draft Elements of Modalities for Negotiations on Non-Agricultural Products' in may 2003, which was revised later in August 2003. Chairman's interventions apparently did not succeed in bringing the members together to support a consensus proposal. The negotiations taking place at various levels places and venues bring out more differences than points of agreement. At the same time there is pressure on members to arrive at some agreement so that Doha Round and the existing international trading system is saved from the embarrassment of another misfired WTO ministerial.

In the event of a consensus statement emerging it is likely to be a combination of different approaches (modalities) towards tariff negotiations. The mixed approach may include across the board formula approach and other supplementary modalities. Members will be urged to adopt the Request and Offer approach as well as Sector by Sector approach in addition to the core modality of across the board formula based reduction of tariffs.

The developed and developing countries might agree on a harmonization formula, which reduce high tariffs at a higher rate. But intensity of the harmonization process will be decided by the relevant coefficients to be determined through negotiations. Developing countries will be seeking speedy and intensive harmonization between high and low tariffs because it will help address problems of tariff peaks as well as tariff escalation.

Developing countries on their part may also have to agree to apply a harmonization formula for reducing their tariffs. But they are likely to insist on less than full reciprocity in tariff reduction. They will demand for a different (higher) coefficient in the harmonization formula so that the average rate of reduction in their tariff will be lower when compared to the rate of reduction in developed countries. Developed countries might put pressure to keep the difference between coefficients (average rates at which tariffs are cut) to the minimum.

Another important issue related to the tariff cutting formula is that of incorporation of the average level of tariffs in member countries into the reduction framework. The average level of tariff is a reflection of the stage of development; higher the stage of development lower will be the average level of tariffs. If stage of development is to be taken into account countries having higher average tariffs should be allowed to have lower rate of reduction and vice versa. The suggestion in this regard is to take the average rate of existing tariffs (base rates) into the formula. This is what is done in the Argentina, Brazil, India (ABI) proposal. As we have illustrated (see Q&A: NAMA) ABI formula will ensure lower cuts in countries having higher initial average tariff. The proposal to take the initial average of tariffs into account is likely to get widespread support from WTO membership because it will make the tariff cutting formula sensitive to the stage (history) of development. Some developed nations are also likely to support this proposition.

The long pending demand of developing countries that all specific tariffs of developed markets should be converted into the ad valorem form is likely to be conceded. The protectionist design behind the specific tariffs has been so well exposed that it would be difficult now for the industrialised nations to retain them.

The Zero for Zero approach advanced in the document circulated by the NGMA chairman is unlikely to be taken into the ministerial declaration on modalities. Zero for Zero approach in selected sectors will make S&DT provision redundant. The developing countries will loose preference margins they enjoy in developed markets under different schemes/association agreement, etc. It will also adversely affect the fiscal viability of many developing country governments for they are highly dependent on customs revenue. Any sectoral understanding on tariff cuts will have to be therefore less ambitious in terms of depth of cut by developing countries as well as longer transition period given to them.

Another likely issue of contention will be that of taking bound rates as base rates for tariff negotiations. Developing countries including India are in no mood to accept applied rates as base rates. If applied rates are taken as base rates for tariff cuts it will amount to penalizing them for their efforts towards liberalization in the post Uruguay Round period. It should be noted that the tariff schedules of member countries submitted to the WTO contain primarily the bound rates and not the applied ones. While developed countries insist on 100 per cent tariff bindings, the developing countries are likely to insist on their right to keep a reasonable proportion of tariff lines as unbound. This is required for safeguarding

sensitive products from external shocks. Having drawn the picture of the battle-ground, and marked the positions taken by the allies and foes, it will be the balance of political and economic power that decide on the outcome of the Hong Kong Ministerial on NAMA. A compromise formula is likely to be pushed through to save the system from the embarrassment of repeated failures. But, as is clear from the long contested positions of participants in the event of an agreement it is likely to be far less ambition than what was originally projected.